

REMARKS

I. CLAIMS IN THE CASE

Claim 127 has been canceled without prejudice. Claims 105, 113 and 129 have been amended. Claims 105, 106, 112-115, 123-126 and 128-152 are currently pending.

Claim 105 has been amended as suggested by the Examiner in the previous Action, and thus should be in condition for allowance.

Claim 113 was amended to correct a typographical error in dependency.

II. REINSTATEMENT OF CLAIMS 107-111 AND 116-122

In that a generic linking claim has been placed into condition for allowance, Applicants respectfully request reinstatement and allowance of withdrawn claims 107-111 and 116-122. These claims should be considered allowable in that all depend from allowable claim 105.

III. PRIORITY CLAIM/REQUEST FOR AMENDED FILING RECEIPT

Applicants again request an amended filing receipt reflecting the amended continuing application data and revised priority claim. If the Examiner is unwilling to provide an amended filing receipt it is requested that such be indicated on the record so that an appropriate petition might be instituted.

IV. REJECTION OF CLAIMS UNDER 35 U.S.C. § 112, 2ND PARAGRAPH

The Action first rejects claims 127 and 129-130 as being indefinite and confusing as to “how two strands of a double stranded adaptor can be attached to a single strand of a DNA fragment.

In response, Applicants believe that the amendments to claim 105 have adequately addressed the Examiner’s concerns.

V. REJECTION OF CLAIMS 105, 106, 123 AND 126 AS ANTICIPATED

The Action next rejects claims 105, 106 and 126 as anticipated by Legrain *et al.*, arguing that Legrain teaches a method of fragmenting by sonication and conditioning of 3' ends with Mung bean nuclease which, according to the Action, produces a 3' end with a 3' hydroxyl group. The Action further argues that Legrain *et al.* teaches the attachment of a single stranded adaptor to the conditioned termini, and thus anticipates claim 1. The Action indicates that the claims would be allowable if clarified to include a reference to the attachment of a double stranded adaptor (see claim 127).

Without in any way conceding the Examiner's characterization of Legrain *et al.*, Applicants have proceeded to amend independent claim 105 as suggested, to place that claim, and all claims depending therefrom, in condition for allowance.

VI. REJECTION OF CLAIMS 124, 125, 132, 133 AND 135 AS OBVIOUS

The Action next maintains the rejection of claims 124, 125, 132, 133 and 135 as obvious over Legrain in combination with Willems, as set forth in the previous Action.

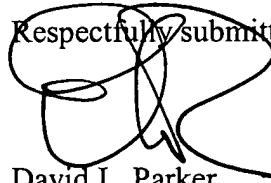
In response, without in any way conceding the Examiner's characterization of Legrain or Willems, Applicants note that each of the rejected claim depend from claim 105 and thus should now be in condition for allowance.

VII. CONCLUSION

It is believed that the present response is a complete response to the outstanding official action, and that the present application is now in condition for allowance.

The Examiner is invited to contact the undersigned attorney at (512) 536-3055 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'D. Parker', written over the words 'Respectfully submitted,'.

David L. Parker
Reg. No. 32,165
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-3055
(512) 536-4598 (facsimile)

Date: November 19, 2003